

Article 84A.

Post-Release Supervision.

**§ 15A-1368. Definitions and administration.**

(a) The following words have the listed meaning in this Article:

- (1) Post-release supervision or supervision. – The time for which a sentenced prisoner is released from prison before the termination of his maximum prison term, controlled by the rules and conditions of this Article. Purposes of post-release supervision include all or any of the following: to monitor and control the prisoner in the community, to assist the prisoner in reintegrating into society, to collect restitution and other court indebtedness from the prisoner, and to continue the prisoner's treatment or education.
- (2) Supervisee. – A person released from incarceration and in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and Post-Release Supervision and Parole Commission on post-release supervision.
- (3) Commission. – The Post-Release Supervision and Parole Commission, whose general authority is described in G.S. 143B-720.
- (4) Minimum imposed term. – The minimum term of imprisonment imposed on an individual prisoner by a court judgment, as described in G.S. 15A-1340.13(c). When a prisoner is serving consecutive imprisonment terms, the minimum imposed term, for purposes of this Article, is the sum of all minimum terms imposed in the court judgment.
- (5) Maximum imposed term. – The maximum term of imprisonment imposed on an individual prisoner by a court judgment, as described in G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison terms, the maximum imposed term, for purposes of this Article, is the sum of all maximum terms imposed in the court judgment or judgments, less 12 months for each of the second and subsequent sentences imposed for Class B through Class E felonies, or less 60 months for each second or subsequent Class B1 through E felony for which the sentence was established pursuant to G.S. 15A-1340.17(f), and less nine months for each of the second and subsequent sentences imposed for Class F through Class I felonies.

(b) Administration. – The Post-Release Supervision and Parole Commission, as authorized in Chapter 143 of the General Statutes, shall administer post-release supervision as provided in this Article. (1993, c. 538, s. 20.1; 1994, Ex. Sess., c. 14, ss. 24, 25; c. 24, s. 14(b); 1997-237, s. 2; 2011-145, s. 19.1(h); 2011-192, s. 2(h); 2011-307, s. 4; 2017-186, s. 2(uuu).)

**§ 15A-1368.1. Applicability of Article 84A.**

This Article applies to all felons sentenced to an active punishment under Article 81B of this Chapter or G.S. 90-95(h), but does not apply to felons in Class A and Class B1 sentenced to life imprisonment without parole. Prisoners subject to Articles 85 and 85A of this Chapter are excluded from this Article's coverage. (1993, c. 538, s. 20.1; 1994, Ex. Sess., c. 14, s. 26; c. 22, s. 8; c. 24, s. 14(b); 2011-192, s. 2(a); 2012-188, s. 6.)

**§ 15A-1368.2. Post-release supervision eligibility and procedure.**

(a) Except as otherwise provided in this subsection, a prisoner to whom this Article applies shall be released from prison for post-release supervision on the date equivalent to his maximum imposed prison term less 12 months in the case of Class B1 through E felons and less nine months in the case of Class F through I felons, less any earned time awarded by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or the custodian of a local confinement facility under G.S. 15A-1340.13(d). A prisoner whose maximum sentence is established pursuant to G.S. 15A-1340.17(f) shall be released from prison for post-release supervision on the date equivalent to his or her maximum imposed prison term less 60 months, less any earned time awarded by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or the custodian of a local confinement facility under G.S. 15A-1340.13(d). If a prisoner has not been awarded any earned time, the prisoner shall be released for post-release supervision on the date equivalent to his maximum prison term less 12 months for Class B1 through E felons and less nine months for Class F through I felons.

(b) A prisoner shall not refuse post-release supervision. Willful refusal to accept post-release supervision or to comply with the terms of post-release supervision by a prisoner whose offense requiring post-release supervision is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, is punishable as contempt of court under G.S. 5A-11 and may result in imprisonment under G.S. 5A-12. Furthermore, any period of time during which a prisoner whose offense requiring post-release supervision is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes is not in fact released pursuant to subsection (a) of this section due to the prisoner's resistance to that release shall toll the running of the period of supervised release imposed by subsection (c) of this section. For purposes of this subsection and the provisions of G.S. 5A-11, "willful refusal to accept post-release supervision or to comply with the terms of post-release supervision" includes, but is not limited to, knowingly violating the terms of post-release supervision in order to be returned to prison to serve out the remainder of the prisoner's sentence. Notwithstanding any other provision of law, a prisoner punished for the offense of contempt of court under this subsection is not eligible for credit for time served against the sentence for which the prisoner is subject to post-release supervision. Punishment by contempt for willful refusal to accept post-release supervision or to comply with the terms of post-release supervision does not preclude the application of any other sanction provided by law for the same conduct.

(c) A supervisee's period of post-release supervision shall be for a period of 12 months in the case of Class B1 through E felons and nine months in the case of Class F through I felons, unless the offense is an offense for which registration is required pursuant to Article 27A of Chapter 14 of the General Statutes. For offenses subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the period of post-release supervision is five years. The conditions of post-release supervision are as authorized in G.S. 15A-1368.5.

(c1) Notwithstanding subsection (c) of this section, a person required to submit to satellite-based monitoring pursuant to G.S. 15A-1368.4(b1)(6) shall continue to participate in satellite-based monitoring beyond the period of post-release supervision until the Commission releases the person from that requirement pursuant to G.S. 14-208.43.

(d) A supervisee's period of post-release supervision may be reduced while the supervisee is under supervision by earned time awarded by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, pursuant to rules adopted in accordance with law. A

supervisee is eligible to receive earned time credit toward the period of supervision for compliance with reintegrative conditions described in G.S. 15A-1368.5.

(e) Repealed by Session Laws 1997-237, s. 7.

(f) When a supervisee completes the period of post-release supervision, the sentence or sentences from which the supervisee was placed on post-release supervision are terminated. (1993, c. 538, s. 20.1; 1994, Ex. Sess., c. 24, s. 14(b); 1993 (Reg. Sess., 1994), c. 767, s. 4; 1996, 2nd Ex. Sess., c. 18, s. 20.14(a); 1997-237, s. 7; 2006-247, s. 15(f); 2011-145, s. 19.1(h); 2011-192, s. 2(b); 2011-307, ss. 2, 5; 2017-186, s. 2(vvv).)

### **§ 15A-1368.3. Incidents of post-release supervision.**

(a) Conditionality. – Post-release supervision is conditional and subject to revocation.

(b) Modification. – The Commission may for good cause shown modify the conditions of post-release supervision at any time before the termination of the supervision period.

(c) Effect of Violation. – If the supervisee violates a condition, described in G.S. 15A-1368.4, at any time before the termination of the supervision period, the Commission may continue the supervisee on the existing supervision, with or without modifying the conditions, or if continuation or modification is not appropriate, may revoke post-release supervision as provided in G.S. 15A-1368.6 and reimprison the supervisee for a term consistent with the following requirements:

- (1) Supervisees who were convicted of an offense for which registration is required under Article 27A of Chapter 14 of the General Statutes and supervisees whose supervision is revoked for a violation of the required controlling condition under G.S. 15A-1368.4(b) or for absconding in violation of G.S. 15A-1368.4(e)(7a) will be returned to prison up to the time remaining on their maximum imposed terms. All other supervisees will be returned to prison for three months and may be returned for three months on each of two subsequent violations, after which supervisees who were Class B1 through E felons may be returned to prison up to the time remaining on their maximum imposed terms. Reimprisonment for a violation under this subdivision tolls the running of the period of supervised release, except that a supervisee shall not be rereleased on post-release supervision if the supervisee has served all the time remaining on the supervisee's maximum imposed term.
- (2) The supervisee shall not receive any credit for days on post-release supervision against the maximum term of imprisonment imposed by the court under G.S. 15A-1340.13.
- (3) Pursuant to Article 19A of Chapter 15, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall award a prisoner credit against any term of reimprisonment for all time spent in custody as a result of revocation proceedings under G.S. 15A-1368.6, unless as a result of a violation of the conditions, the supervisee is returned to prison for a three-month period. The three-month period shall not be reduced by credit for time already served. Any such credit shall be applied toward the maximum prison term.
- (4) The prisoner is eligible to receive earned time credit against the maximum prison term as provided in G.S. 15A-1340.13(d) for time served in prison after the revocation.

(d) Re-Release After Revocation of Post-Release Supervision. – A prisoner who has been reimprisoned prior to completing a post-release supervision period may again be released on post-release supervision by the Commission subject to the provisions which govern initial release.

(e) Timing of Revocation. – The Commission may revoke post-release supervision for violation of a condition during the period of supervision. The Commission may also revoke post-release supervision following a period of supervision if:

- (1) Before the expiration of the period of post-release supervision, the Commission has recorded its intent to conduct a revocation hearing; and
- (2) The Commission finds that every reasonable effort has been made to notify the supervisee and conduct the hearing earlier. Prima facie evidence of reasonable effort to notify is the issuance of a temporary or conditional revocation order, as provided in G.S. 15A-1376, that goes unserved. (1993, c. 538, s. 20.1; 1994, Ex. Sess., c. 14, s. 27; c. 24, s. 14(b); 1993 (Reg. Sess., 1994), c. 767, s. 5; 2011-145, s. 19.1(h); 2011-192, s. 2(d); 2012-188, s. 4; 2016-77, s. 2; 2017-186, s. 2(www).)

#### **§ 15A-1368.4. Conditions of post-release supervision.**

(a) In General. – Conditions of post-release supervision may be reintegrative in nature or designed to control the supervisee's behavior and to enforce compliance with law or judicial order. A supervisee may have his supervision period revoked for any violation of a controlling condition or for repeated violation of a reintegrative condition. Compliance with reintegrative conditions may entitle a supervisee to earned time credits as described in G.S. 15A-1368.2(d).

(b) Required Condition. – The Commission shall provide as an express condition of every release that the supervisee not commit another crime during the period for which the supervisee remains subject to revocation. A supervisee's failure to comply with this controlling condition is a supervision violation for which the supervisee may face revocation as provided in G.S. 15A-1368.3.

(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the required condition set forth in subsection (b) of this section, for a supervisee who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, controlling conditions, violations of which may result in revocation of post-release supervision, are:

- (1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).
- (2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the Commission.
- (3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- (4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.
- (5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless a court of competent jurisdiction expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the child's best

interest to allow the supervisee to reside in the same household with a minor child.

- (6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by G.S. 14-208.6(4) and the supervisee is in the category described by G.S. 14-208.40(a)(1).
- (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by G.S. 14-208.6(4) and the supervisee is in the category described by G.S. 14-208.40(a)(2).
- (8) Submit at reasonable times to warrantless searches by a post-release supervision officer of the supervisee's person and of the supervisee's vehicle and premises while the supervisee is present, for purposes reasonably related to the post-release supervision, but the supervisee may not be required to submit to any other search that would otherwise be unlawful. For purposes of this subdivision, warrantless searches of the supervisee's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the post-release supervision. Whenever the warrantless search consists of testing for the presence of illegal drugs, the supervisee may also be required to reimburse the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the actual cost of drug screening and drug testing, if the results are positive.

(c) Discretionary Conditions. – The Commission, in consultation with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice, may impose conditions on a supervisee it believes reasonably necessary to ensure that the supervisee will lead a law-abiding life or to assist the supervisee to do so. The Commission may also impose a condition of community service on a supervisee who was a Class F through I felon and who has failed to fully satisfy any order for restitution, reparation, or costs imposed against the supervisee as part of the supervisee's sentence; however, the Commission shall not impose such a condition of community service if the Commission determines, upon inquiry, that the supervisee has the financial resources to satisfy the order.

(c1) Repealed by Session Laws 2013-196, s. 2, effective June 26, 2013.

(d) Reintegrative Conditions. – Appropriate reintegrative conditions, for which a supervisee may receive earned time credits against the length of the supervision period, and repeated violation that may result in revocation of post-release supervision, are:

- (1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the supervisee for suitable employment.
- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (3) Attend or reside in a facility providing rehabilitation, instruction, recreation, or residence for persons on post-release supervision.
- (4) Support the supervisee's dependents and meet other family responsibilities.
- (5) In the case of a supervisee who attended a basic skills program during incarceration, continue attending a basic skills program in pursuit of an adult high school equivalency diploma or adult high school diploma.
- (6) Satisfy other conditions reasonably related to reintegration into society.

(e) Controlling Conditions. – Appropriate controlling conditions, violation of which may result in revocation of post-release supervision, are:

- (1) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for the supervisee by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.
- (2) Comply with a court order to pay the costs of reintegrative treatment for a minor and a minor's parents or custodians where the offense involved evidence of physical, mental, or sexual abuse of a minor.
- (3) Comply with a court order to pay court costs and costs for appointed counsel or public defender in the case for which the supervisee was convicted.
- (4) Not possess a firearm, destructive device, or other dangerous weapon unless granted written permission by the Commission or a post-release supervision officer.
- (5) Report to a post-release supervision officer at reasonable times and in a reasonable manner, as directed by the Commission or a post-release supervision officer.
- (6) Permit a post-release supervision officer to visit at reasonable times at the supervisee's home or elsewhere.
- (7) Remain within the geographic limits fixed by the Commission unless granted written permission to leave by the Commission or the post-release supervision officer.
- (7a) Not to abscond, by willfully avoiding supervision or by willfully making the supervisee's whereabouts unknown to the supervising probation officer.
- (8) Answer all reasonable inquiries by the post-release supervision officer and obtain prior approval from the post-release supervision officer for any change in address or employment.
- (9) Promptly notify the post-release supervision officer of any change in address or employment.
- (10) Submit at reasonable times to searches of the supervisee's person by a post-release supervision officer for purposes reasonably related to the post-release supervision. The Commission shall not require as a condition of post-release supervision that the supervisee submit to any other searches that would otherwise be unlawful. Whenever the search consists of testing for the presence of illegal drugs, the supervisee may also be required to reimburse the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the actual cost of drug testing and drug screening, if the results are positive.
- (11) Make restitution or reparation to an aggrieved party as provided in G.S. 148-57.1.
- (12) Comply with an order from a court of competent jurisdiction regarding the payment of an obligation of the supervisee in connection with any judgment rendered by the court.

(13) Remain in one or more specified places for a specified period or periods each day, and wear a device that permits the defendant's compliance with the condition to be monitored electronically and pay a fee of ninety dollars (\$90.00) for the electronic monitoring device and a daily fee in an amount that reflects the actual cost of providing the electronic monitoring. The Commission may exempt a person from paying the fees only for a good cause. Fees collected under this subsection for the electronic monitoring device shall be transmitted to the State for deposit in the State's General Fund. The daily fees collected under this subsection shall be remitted to the Department of Public Safety to cover the costs of providing the electronic monitoring.

(14) Repealed by Session Laws 2013-101, s. 1, effective June 12, 2013.

(e1) Prohibited Conditions. – The Commission shall not impose community service as a condition of post-release supervision.

(f) Required Supervision Fee. – The Commission shall require as a condition of post-release supervision that the supervisee pay a supervision fee of forty dollars (\$40.00) per month. The Commission may exempt a supervisee from this condition only if it finds that requiring payment of the fee is an undue economic burden. The fee shall be paid to the clerk of superior court of the county in which the supervisee was convicted. The clerk shall transmit any money collected pursuant to this subsection to the State to be deposited in the State's General Fund. In no event shall a supervisee be required to pay more than one supervision fee per month. (1993, c. 538, s. 20.1; 1994, Ex. Sess., c. 24, s. 14(b); 1996, 2nd Ex. Sess., c. 18, s. 20.14(b); 1997-57, s. 6; 1997-237, s. 6; 2001-487, s. 47(c); 2002-126, s. 29A.2(b); 2006-247, s. 15(g); 2007-213, s. 9; 2010-31, s. 19.3(b); 2011-145, ss. 19.1(h), (k); 2011-192, s. 2(c); 2013-101, s. 2; 2013-196, s. 1; 2013-363, s. 6.7(b); 2014-115, s. 28(a); 2017-186, s. 2(xxx).)

#### **§ 15A-1368.5. Commencement of post-release supervision; multiple sentences.**

A period of post-release supervision begins on the day the prisoner is released from imprisonment. Periods of post-release supervision run concurrently with any federal or State prison, jail, probation, or parole terms to which the prisoner is subject during the period, only if the jurisdiction which sentenced the prisoner to prison, jail, probation, or parole permits concurrent crediting of supervision time. (1993, c. 538, s. 20.1; 1994, Ex. Sess., c. 24, s. 14(b).)

#### **§ 15A-1368.6. Arrest and hearing on post-release supervision violation.**

(a) Arrest for Violation of Post-Release Supervision. – A supervisee is subject to arrest by a law enforcement officer or a post-release supervision officer for violation of conditions of post-release supervision only upon issuance of an order of temporary or conditional revocation of post-release supervision by the Commission. However, a post-release supervision revocation hearing under subsection (e) of this section may be held without first arresting the supervisee.

(b) When and Where Preliminary Hearing on Post-Release Supervision Violation Required. – Unless the hearing required by subsection (e) of this section is first held or a continuance is requested by the supervisee, a preliminary hearing on supervision violation shall be held reasonably near the place of the alleged violation or arrest and within seven working days of the arrest of a supervisee to determine whether there is probable cause to believe that the supervisee violated a condition of post-release supervision. The preliminary hearing for violations of post-release supervision may be conducted by videoconference. Otherwise, the supervisee shall be

released seven working days after arrest to continue on supervision pending a hearing. If the supervisee is not within the State, the preliminary hearing is as prescribed by G.S. 148-65.1A.

(b1) Bail Following Arrest for Violation of Post-Release Supervision if Releasee Is a Sex Offender. – Notwithstanding subsection (b) of this section, if the releasee has been convicted of an offense that requires registration under Article 27A of Chapter 14 of the General Statutes and is arrested for a violation in accordance with this section, the releasee shall be detained without bond until the preliminary hearing is conducted.

(c) Officers to Conduct Preliminary Hearing. – The preliminary hearing on post-release supervision violation shall be conducted by a judicial official, or by a hearing officer designated by the Commission. A person employed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall not serve as a hearing officer at a hearing provided by this section unless that person is a member of the Commission, or is employed solely as a hearing officer.

(d) Procedure for Preliminary Hearing. – The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall give the supervisee notice of the preliminary hearing and its purpose, including a statement of the violations alleged. At the hearing, the supervisee may appear and speak in the supervisee's own behalf, may present relevant information, and may, on request, personally question witnesses and adverse informants, unless the hearing officer finds good cause for not allowing confrontation. If the person holding the hearing determines there is probable cause to believe the supervisee violated conditions of supervision, the hearing officer shall summarize the reasons for the determination and the evidence relied on. Formal rules of evidence do not apply at the hearing. If probable cause is found, the supervisee may be held in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to serve the appropriate term of imprisonment, subject to the outcome of a revocation hearing under subsection (e) of this section.

(e) Revocation Hearing. – Before finally revoking post-release supervision, the Commission shall, unless the supervisee waived the hearing or the time limit, provide a hearing within 45 days of the supervisee's reconfinement to determine whether to revoke supervision finally. For purposes of this subsection, the 45-day period begins when the preliminary hearing required by subsection (b) of this section is held or waived, or upon the passage of seven working days after arrest, whichever is sooner. The revocation hearing for violations of post-release supervision may be conducted by videoconference. The Commission shall adopt rules governing the hearing. (1993, c. 538, s. 20.1; 1994, Ex. Sess., c. 24, s. 14(b); 1996, 2nd Ex. Sess., c. 18, s. 20.15(b); 1997-237, s. 1; 2000-189, s. 1; 2008-117, s. 20; 2011-145, s. 19.1(h); 2016-77, s. 4(b); 2017-186, s. 2(yyy).)